



Town of Ashburnham Wetlands Protection Bylaw Rules and Regulations

(Adopted February 12, 2007;
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Rules and Regulations under the Ashburnham Wetlands Protection Bylaw

SECTION 1 GENERAL PROVISIONS

1.1 Introduction

- 1.1.1 These rules and regulations (hereinafter referred to as the Regulations) are promulgated by the Ashburnham Conservation Commission (hereinafter referred to as the Commission) pursuant to the authority granted to it under Section 13.1 of the Ashburnham Wetlands Protection Bylaw (hereinafter referred to as the Bylaw). These regulations shall compliment the Bylaw. They shall be used to enforce and implement the Bylaw and shall have the same force of law upon their effective date.

1.2 Purpose

- 1.2.1 The Bylaw sets forth a public review and decision making process by which activities likely to have an impact or cumulative effect upon resource areas under the Bylaw are to be regulated in order to ensure the protection of wetlands including: protection of public and private water supplies, protection of groundwater supply, flood control, storm damage prevention, prevention of pollution, protection fisheries, and protection of wildlife habitat, as identified in the MA Wetlands Protection Act (M.G.L. Chapter 131, Section 40).
- 1.2.2 The purpose of these Regulations is to create a uniformity of process and to clarify and define the provisions of the Bylaw by which the Commission shall carry out its responsibilities. Both the Bylaw and these regulations may be amended when necessary.
- 1.2.3 In instances where these Regulations are more stringent than the State wetland regulations at 310 CMR 10.00, these local Regulations shall prevail (see 310 CMR 10.01 (2)).

1.3 Jurisdiction

- 1.3.1 Except as permitted by the Commission or as provided by this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any waters or wetlands, whether or not geographically isolated; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; vernal pools; lands under waterbodies; lands subject to flooding or inundation by groundwater or surface water; and, lands within 200 feet of a perennial river or stream, (hereinafter "resource areas").
- 1.3.2 Consistent with M.G.L. Chapter 131, Section 40 and 310 CMR 10.02 of the State wetland regulations, any activity other than minor activities identified in 310 CMR 10.02(2)(b)1 and 2, proposed or undertaken within 100 feet of a resource area (hereinafter called the Buffer Zone) shall require the filing of an application with the Commission.

1.4 Definitions

- 1.4.1 Except as otherwise provided below or in the Bylaw, the definitions of terms in these Regulations shall be as set forth in the MA Wetlands Protection Act (M.G.L. Chapter 131 Section 40) and associated Regulations (310 CMR 10.00).
- 1.4.1.1 Abutter – the owner of land in accordance with the most recent records of the Ashburnham Tax Assessor's Office. The abutters' properties are within one hundred (100) feet in any horizontal direction of any boundary of the site listed in the permit, or as set forth in the most recent edition of the State wetland regulations.
- 1.4.1.2 Activity - any form of removing, filling, grading, dredging, building upon, expansion, reconstruction, altering, changing, enlarging, draining, withdrawing, damming, discharging, excavation, driving of pilings, construction, improvement, intercepting and/or diverging of water, installations of pipes or drainage systems, discharging of pollutants, destruction or cutting of plant life (including, but not limited to trees), and any change to the physical characteristics of land or the physical or chemical characteristics of water.
- 1.4.1.3 Alteration – without limitation, the following actions when undertaken in areas subject to this Bylaw:
1. Removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
 2. Changing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, low patterns and flood retention characteristics;
 3. Drainage or other disturbance of water level or water table;
 4. Dumping, discharging or filling with any material which may degrade water quality;
 5. Driving of piles, erection of buildings or structures of any kind;
 6. Placing of obstructions whether or not they interfere with the flow of water;
 7. Destruction of plant life, including cutting or removal of trees proximate to resource areas;
 8. Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.
 9. Any activities, changes or work which may cause or tend to contribute to pollution of any resource area or groundwater;
 10. Incremental activities which have, or may have a cumulative adverse impact on the resource areas protected by this Bylaw.
- 1.4.1.4 Bylaw – the Town of Ashburnham Wetlands Protection Bylaw.
- 1.4.1.5 Commission – the Conservation Commission of the Town of Ashburnham.
- 1.4.1.6 Isolated Waters/Wetlands – any surface water or wetland that is geographically surrounded by uplands with no apparent surface water connections to other waters/wetlands that are not surrounded by uplands, e.g. areas of hydrophytic vegetation surrounded by terrestrial vegetation.

- 1.4.1.7 Replication – creation/restoration of a freshwater wetland with the use of soil material(s) conducive for creation/restoration purposes and plants species indigenous to the project area and/or environs, ideally derived from plant stock with local and New England regional origins.
- 1.4.1.8 Resource Areas – any waters or wetlands, whether or not geographically isolated; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; vernal pools; lands under waterbodies; lands subject to flooding or inundation by groundwater or surface water; and, lands within 200 feet of a perennial river or stream, (hereinafter "resource areas").
- 1.4.1.9 Vernal Pool Habitat – a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or the summer, and is free of adult fish populations. Vernal Pool Habitat also includes the area within one hundred (100) feet of the mean annual boundary of such depression, which is certified or certifiable by the Massachusetts Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program vernal pool certification program.

1.5 Performance Standards

- 1.5.1 In performance of its duties under the Bylaw and these Regulations, the Commission shall apply the following Performance Standards, without limitation. Standards not listed herein shall be those set forth in the Wetlands Protection Act Regulations (310 CMR 10.00). Specifically, the Standards as set forth in 310 CMR 10.53 through 10.60 are herein incorporated by reference.
- 1.5.2 The Commission or its Agent shall not delineate/flag wetland resources. The Commission shall only approve or disapprove wetland resource delineations. It is the responsibility of the Applicant to hire a qualified Wetland Consultant/Scientist to flag or otherwise denote in the field the boundaries of wetland resources.
- 1.5.3 Bordering any wetland resource area, the Commission may require a zone of natural vegetation of sufficient width to assure that silt, soil, fertilizer in solutions, organic chemicals, herbicides, organic manure, oils or petroleum products which may be carried by surface runoff shall not reach that wetland, but instead shall be trapped by the natural mulch, soil and roots. This requirement would depend on slope, soil type, ground cover and the project proposed. The Commission shall encourage stabilization of up-gradient areas beyond the one hundred (100) foot line.
- 1.5.4 Any proposed work in a Protected Resource Area and any proposed work that involves a new storm drain system or connection to an existing storm drain system that discharges to a Protected Resource Area, shall not result in an increase in the peak rate of surface runoff during either a 2-year, 10-year or 100-year storm event to areas beyond the boundaries of the property on which the activity is to be conducted, or any resource area within the site. All filings involving a new storm drain system or connection to an existing storm drain system shall provide the Commission with a detailed stormwater pollution prevention plan for during construction, as well as, for long-term maintenance of the stormwater system. This plan shall specify detailed

construction methods for erosion control, identify responsible parties and shall include a signed affidavit that all conditions of the pollution prevention plan shall be met. The discharge of any substances in to the storm drain system, other than stormwater, is strictly prohibited.

1.5.5 New proposed side slopes within 100 feet of a resource area shall have a finished grade according to the following:

1. The Commission requires a 3:1 slope unless the 2:1 slope will eliminate the proposal for wetland alteration.
2. Vegetated and mulched slopes shall be no greater than a 3:1 slope.
3. Stone rip-rapped slopes shall be no greater than a 2:1 slope. The use of jute matting, landscaped slopes, or other methods of slope stabilization may be required.

1.6 Burden of Proof

1.6.1 The applicant shall have the burden of proof by clear and convincing evidence that the work proposed in an application, shall not have unacceptable significant cumulative or harmful effects upon the values protected under the Bylaw. Failure by the Applicant to provide sufficient evidence to the Commission shall be sufficient cause for the Commission to deny the application along with any work or activity proposed therein.

1.7 Waiver

1.7.1 Strict compliance with these Regulations may be waived when, in the judgment of a majority of the Commission, such action is in the public interest, is consistent with the intent and purpose of the Bylaw, or when strict compliance would result in, but not necessarily be limited to, the following: severe economic, physical, legal, contextual hardship far greater in magnitude than the public interest to be served. Any request for a waiver must be submitted to the Commission in writing either prior to or concurrent with the filing of a Request or Notice and must state the provision(s) of the Regulations to be waived, and the justification for and the public interest(s) to be served by the requested waiver. The Commission shall act upon the request at a public hearing and shall notify the Applicant, in writing, of its decision in accordance with the timeframes for 'Public Hearings' set forth in the Bylaw and Regulations. If so granted, the Commission shall include the public interest(s) that are protected or enhanced by issuance of a waiver from these Regulations.

1.8 Emergencies

1.8.1 The Chairman, Vice Chairman or the Conservation Agent, may make binding decisions upon the Commission in cases of emergency as defined by Section 4.3 of the Bylaw.

1.9 Appeals

- 1.9.1 Any decision by the Commission made under the jurisdiction of the Bylaw, including, but not limited to, Orders of Resource Area Delineation, Determinations of Applicability, Order of Conditions, Enforcement Orders, partial or full Certificates of Compliance, and Extension Permits shall be reviewable in Superior Court in accordance with M.G.L. Chapter 249 Section 4 or as otherwise provided by law, but is subject to the filing of a notice of appeal which must be received by the Commission within 10 business days of the issuance of the decision.

1.10 Severability and Invalidity

- 1.10.1 The invalidity of any section of the Rules and Regulations shall not invalidate any other section or provision nor shall it invalidate any Abbreviated Notice of Resource Area Delineation, Orders of Resource Area Delineation, Request for Determination of Applicability, Determination of Applicability, Abbreviated Notice of Intent, Notice of Intent, Order of Conditions, Amended Order of Conditions, Extension Permit, partial and full Certificate of Compliance or Enforcement Order which previously has been received or issued.

1.11 Effective Date

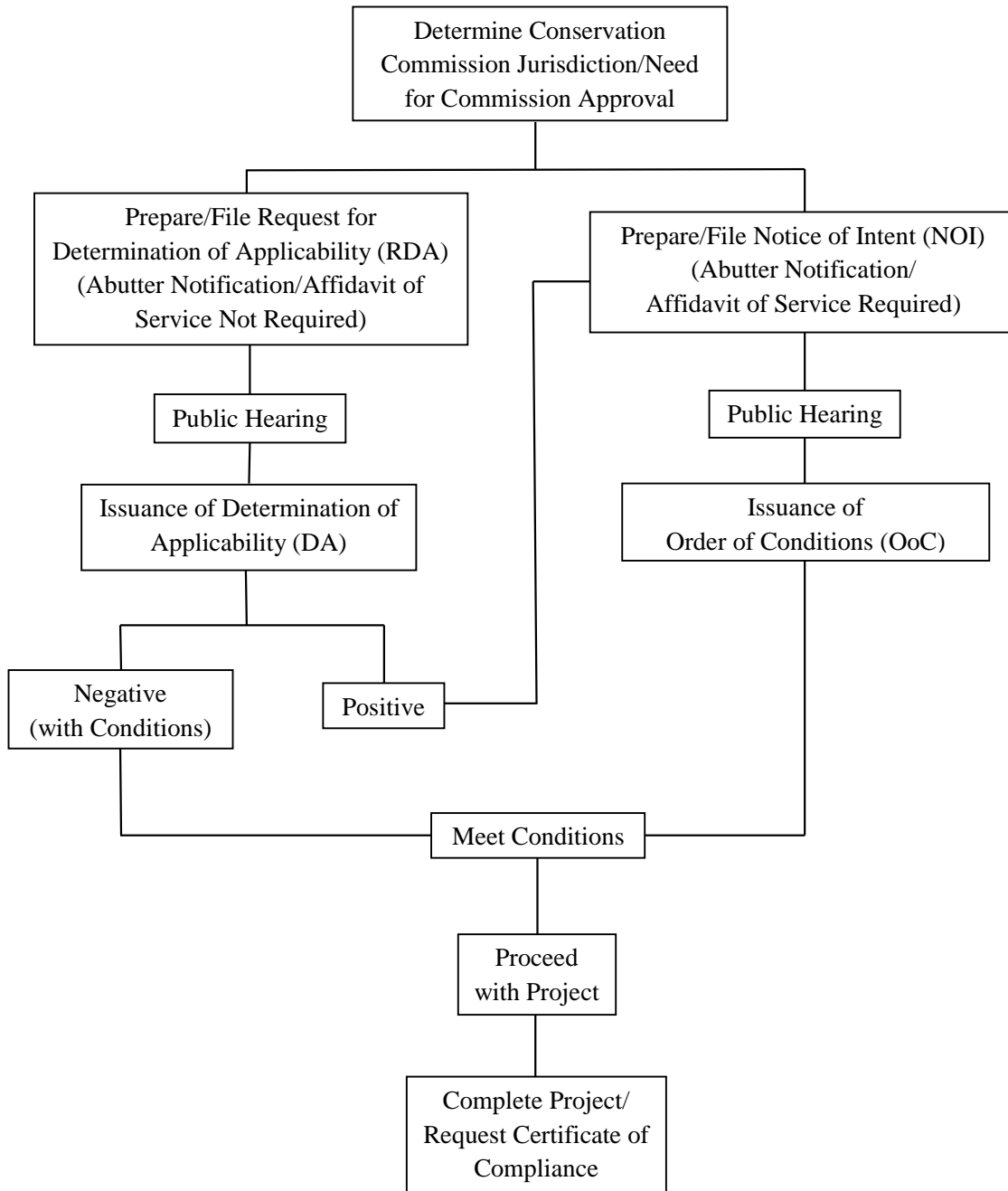
- 1.11.1 The effective date of these Regulations shall be the date on which these rules and regulations are approved by a majority of the Commission after conducting a Public Hearing. These Regulations shall apply to all Abbreviated Notices of Resource Area Delineation, Orders of Resource Area Delineation, Requests for Determination of Applicability, Determinations of Applicability, Abbreviated Notices of Intent, Notices of Intent, Orders of Conditions, Amended Orders of Conditions, Extension Permits, partial or full Certificates of Compliance or Enforcement Orders, which are filed or issued after that date.

SECTION 2 PROCEDURES (SEE EXHIBIT I)

2.1 Receipt of Filings

- 2.1.1 A Request for Determination, Notice of Intent or other applications and/or Requests shall be considered filed with the Commission when a complete application in accordance with the checklist provided in Appendix A is submitted to the Commission, its Agent, or Town staff at its office during the Commission's regular business hours. A completed checklist shall be filed with all applications. Guidance for the preparation/completion of forms, plans and other application materials is provided in Appendix B.
- 2.1.2 If an application is deemed to be insufficient to fully describe the proposed activity and its effect on the environment, the Commission may: (a) notify the Applicant, by certified mail within 10 days of receipt of the application, of the additional information that will be necessary to render the application sufficiently complete for acceptance by the Commission. The twenty one (21) day review period shall not

EXHIBIT I
MA WETLANDS PROTECTION ACT/
ASHBURNHAM WETLANDS PROTECTION BYLAW
SIMPLIFIED APPROVAL PROCESS



begin until a complete application is submitted; or (b) inform the Applicant at or prior to the public hearing of the additional information required, and offer the applicant the opportunity to continue the public hearing so that the additional information can be submitted for review.

2.2 Forms

- 2.2.1 The Commission may accept as the permit application submittal under this bylaw, the permit applications filed under the MA Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and in accordance with regulations set forth in 310 CMR 10.00.

2.3 Deadline

- 2.3.1 The deadline for filing an Abbreviated Notice of Resource Area Delineation, Request for Determination of Applicability, Abbreviated Notice of Intent or Notice of Intent under the MA Wetlands Protection Act or the Bylaw is 10:00AM on the Monday, fourteen (14) days prior to the Public Meeting. If the Monday is a holiday, it must be filed by the Friday before the deadline date.

2.4 Meetings

- 2.4.1 The meetings of the Commission are generally held on the second and fourth Monday of the month at the Ashburnham Town Hall or at a previously posted date and location. Changes of meeting dates may occur due to conflicts with other town functions and holidays.

2.5 Public Hearings

All hearing procedures and timelines shall be as provided in M.G.L. Chapter 131, Section 40 and regulations hereunder. The public hearing required by this Bylaw and the one required under M.G.L. Chapter 131, Section 40 may be combined into one hearing and notification process.

- 2.5.1 Within twenty-one (21) days of receipt of a complete Abbreviated Notice of Resource Area Delineation, Request for Determination of Applicability, Abbreviated Notice of Intent or Notice of Intent application, the Commission shall hold a public hearing to consider the application filed under the Bylaw. Notice of the time and place of the public hearing at which the determination will be made shall be given by the Commission at the expense of the person(s) making the Request or Notice (i.e. the 'Applicant') not less than five (5) business days (excluding Fridays and holidays) prior to such meeting by publication in a newspaper of general circulation in Ashburnham. With the exception of Requests for Determinations of Applicability, the Applicant shall be responsible for providing the Commission evidence of notification of abutters by certified mail, by obtaining signatures, or by other means previously approved by the Commission.

- 2.5.2 Prior to or during the public hearing process, the Commission may require the work area/limits of disturbance or other existing or proposed feature to be staked. The Commission also may require drainage and/or hydrological studies and

calculations; habitat studies per the Department of Environmental Protection's (MA DEP) *Wildlife Habitat Protection Guidance for Inland Wetlands* (MA DEP 2006); detailed replication plans as may be applicable, and any other information necessary to determine the extent to which proposed action(s) may result in adverse impacts to resource areas protected by the Bylaw and these Regulations.

- 2.5.3 If more information is needed and/or the Commission needs to conduct an on-site inspection, the Commission may continue the public hearing until its receipt of the requested information and/or completion of the on-site inspection. Under such conditions, the public hearing may be continued with the mutual agreement of the Commission and the Applicant. Upon receipt of all information requested and/or completion of the on-site inspection, the Commission shall close the public hearing at its next scheduled meeting unless other circumstances warrant otherwise.
- 2.5.4 With respect to vernal pool habitat, the Commission may require the public hearing to be postponed until such time (generally spring and early summer) when the status of the vernal pool relative to its potential for certification by the MA Natural Heritage & Endangered Species Program can be determined either by the Applicant and/or the Commission.
- 2.5.5 All supplemental filings associated with an Abbreviated Notice of Resource Area Delineation, Request for Determination of Applicability, Abbreviated Notice of Intent or Notice of Intent applications shall be submitted to the Conservation/Land Use Office no later than 7 (seven) days prior to the Commission's next scheduled meeting.
- 2.5.6 Within twenty-one (21) days of closing the public hearing, providing all fees and expenses have been paid and all necessary information has been received and evaluated, the Commission shall issue an Order of Resource Area Delineation approving or disapproving the delineation of wetland resource boundaries. Within this same time period, the Commission shall issue or deny a permit for the requested activities. All such Determinations, Orders or other permit shall be valid for three (3) years from the date of issuance, unless otherwise permitted and/or extended.
- 2.5.7 Determinations of Applicability and Orders of Conditions shall contain those conditions which the Commission deems necessary to protect the statutory interests of and the areas subject to protection under the MA Wetlands Protection Act (M.G. L. Chapter 131, Section 40), the Bylaw and these Regulations. The Commission may reserve the right to require additional protective conditions upon the receipt of additional permit-specific information or following site-specific inspections.
- 2.5.8 If the Commission issues a Determination of Applicability or Order of Conditions, the approved work may commence no sooner than 10 (ten) business days (excluding Fridays and holidays) from the date the Order of Conditions is issued or delivered, providing no appeal has been received and proof of the Order's recording at the Registry of Deeds has been received by the Commission. Determinations of Applicability issued by the Commission do not need to be recorded at the Registry of Deeds.

- 2.5.9 If the Order of Conditions is appealed to Superior Court under the appeal provisions of the Bylaw, no work may commence until a final decision has been rendered by the Courts approving the activity and all further appeal periods have expired.

2.6 Concurrent Issuance of Order of Conditions

- 2.6.1 Any Order of Conditions issued under the Bylaw may be issued concurrently with and by using the same form as an Order of Conditions under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40.

2.7 Recording of the Order of Conditions

- 2.7.1 The original copy of the Order of Resource Area Delineation, Order of Conditions, Amended Order of Conditions or Extension Permit shall be recorded in the Land Court or the Registry of Deeds in the appropriate District at the expense of the applicant. Proof of recording shall be sent to the Commission.

2.8 Amendment to the Order of Conditions

- 2.8.1 An Applicant shall follow all of the same procedures as required for the filing of the Notice of Intent including notification to abutters, public notice, and corresponding filing fee.

2.9 Extension of Order of Resource Area Delineation and Order of Conditions

- 2.9.1 At least thirty (30) days prior to the expiration of an Order of Resource Area Delineation or Order of Conditions, an Applicant may request, in writing, an extension of said Orders.
- 2.9.2 In conjunction with the Extension Request, an on-site visit, re-flagging/staking of wetland resource areas or additional information may be required by the Commission. The Orders also may be changed or modified by the Commission.

The Commission may deny the request for an extension and require the filing of a new Abbreviated Notice of Resource Area Delineation, Abbreviated Notice of Intent or Notice of Intent in the following circumstances, among others:

1. where no work has begun on the project, except where such failure is due to an unavoidable delay, such as appeals, in obtaining other necessary permits;
2. where new information, not available at the time of the Order was issued, has become available and indicates the Order is not adequate to protect the interests identified in the Bylaw and these Regulations;
3. where incomplete work is causing damage to the wetland resource area interests identified in the Bylaw;
4. where work has been done in violation of the Order, Bylaw or these Regulations;

5. where a resource area delineation or certification under the State wetland regulations at 310 CMR 10.02(2)(b)2 as set forth in an Order of Resource Area Delineation is no longer accurate.
 6. where State and/or municipal regulations have changed.
- 2.9.3 The extension of an Order under the Bylaw may be issued concurrently with and by using the same form as an Extension Permit of an Order under the MA Wetlands Protection Act, M.G.L. Chapter 131, Section 40.
- 2.10 Certificate of Compliance and Partial Certificate of Compliance**
- 2.10.1 Within thirty (30) days of completion of all of the work approved in the Order of Conditions and shown on the approved plans and documents of record, the Applicant shall request in writing a Certificate of Compliance.
- 2.10.2 Unless waived by a majority of the Commission, the request shall include an “As-built Plan” prepared by a registered Professional Engineer or registered Professional Land Surveyor. This plan shall indicate any deviation from the approved plans and Order of Conditions, along with a narrative which shall include the reasons for those deviations. Alternatively, the Commission may require a letter signed, stamped and dated by either a Professional Engineer or registered Professional Land Surveyor certifying that the project was constructed in accordance with the approved plans and the Order of Conditions.
- 2.10.3 For sewer/septic repairs and new systems, the Commission shall also require a written certification from the installer that the old system was properly abandoned, as defined in Title 5 of the State Environmental Code, and the new system was installed in accordance with the approved plans and the Order of Conditions.
- 2.10.4 Prior to the issuance of a Certificate of Compliance, the Commission or its Agent shall conduct an on-site visit to determine the extent of the project completion and compliance with the Order of Conditions.
- 2.10.5 The Commission shall approve or deny a Full Certificate of Compliance or issue a Partial Certificate of Compliance within twenty one (21) days of receipt of the written request. The Applicant and the Commission may request a continuance of the request when such a continuance may allow correction by the Applicant of minor site-specific conditions which can be completed in a short period of time.
- 2.10.6 The Certificate of Compliance or Partial Certificate of Compliance under the Bylaw may be issued concurrently with and using the same form as the Certificate of Compliance under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131 Section 40.
- 2.11 Enforcement and Enforcement Orders**
- When the Commission determines that an activity is in violation of the Bylaw, these Regulations, or a final Determination of Applicability or Order of Conditions, the

Commission may issue an Enforcement Order to the owner of record and/or the violator ordering that the illegal activity cease immediately.

- 2.11.1 An Enforcement Order shall be issued on a form provided by the Commission, and shall be signed by a majority of the Commission. In a situation requiring immediate action, an Enforcement Order may be signed by the Agent of the Commission (with the consent of at least one member of the Commission), or a single member provided said Order is ratified by a majority of the members at the next scheduled meeting of the Commission.
- 2.11.2 The Bylaw, these Regulations, and all Determinations of Applicability and Orders of Conditions may be enforced (in accordance with the Bylaw) pursuant to M.G.L. Chapter 40, Section 21 D, by the Commission, its Agent(s), Town Police Officers or other Agent(s) allowed by law. In this regard, the members and Agent(s) of the Commission may enter upon privately owned land for the purposes of performing their duties under the Bylaw and these Regulations.
- 2.11.3 Any person who violates any provision of the Bylaw, the Regulations promulgated thereunder, or any conditions of a valid permit shall be subject to a fine of not more than \$100 per day for each offense. Each day or portion thereof during which a violation continues shall constitute a separate offense. In the event of multiple violations, each condition violated shall constitute a separate offense. In the case of any unauthorized work, the offense shall be deemed to continue each day until the area is restored to the condition that existed prior to the commencement of unauthorized work.

SECTION 3 FILING FEES, PERFORMANCE BONDS and CONSULTANTS FEE

3.1 Purpose

- 3.1.1 The purpose of the fee system is to defray the costs of administering the Bylaw and requests for action from the Commission, provide for engineering and consultants services, and to secure and ensure the satisfactory performance of work required by any Permit.

3.2 Authority

- 3.2.1 The filing fee schedule is promulgated pursuant to Section 5 of the Bylaw.
- 3.2.2 The escrow account, performance bond or other security mechanism used to ensure satisfactory performance of work is promulgated in accordance with Section 15 of the Bylaw.

3.3 Time of Payment and Waiver of Fee

- 3.3.1 At the time of submission of a Request for a Determination of Applicability, Notice of Intent, or other permit application, the Applicant shall pay a filing fee.

- 3.3.2 The filing fee may be waived for a Request for Determination of Applicability, Notice of Intent, or other permit application filed by a government agency.
- 3.3.3 After a duly noticed public hearing, the Commission shall have the right to change the fee schedule shown in Table I, below. Any change of the fee schedule must be advertised and posted at the Town Hall at least thirty (30) days prior to the date the changes become effective.
- 3.4 Disputes over Filing Fees**
- 3.4.1 Whenever the Commission or its Agent determines that an inadequate fee has been paid, the time period for the Commission to act may be stayed by the Commission until the balance of the fee is paid.
- 3.4.2 The Applicant may appeal the fee(s) pursuant to the Massachusetts General Laws.
- 3.4.3 The Applicant may bring the matter of applicable filing fees to the Commission at a regularly scheduled meeting for the Commission's approval prior to the filing of an application.
- 3.5 Filing Fee Schedule**
- The schedule of filing fees pursuant to the Bylaw and these Regulations is set forth in Table I, below.
- 3.5.1 Inspections, listed in Appendix C, are free and shall be requested in writing. If more than two (2) site visits are required for an Applicant to satisfy an inspection requirement, however, a \$25.00 fee per additional site visit may be imposed. Failure to provide the Commission with a written request for each required inspection shall result in a \$50.00 fee plus an additional \$25 for each related site visit conducted by the Commission or its Agent.
- 3.6 Refund of Fee**
- 3.6.1 If, at any time, the Applicant withdraws a previously filed Request for Determination of Applicability, Notice of Intent or other permit application requiring a filing fee, there will be no refund of the fee paid by the Applicant.
- 3.7 Consultant Fees**
- 3.7.1 As provided by M.G. L. Chapter 44 Section 53G, the Commission may impose reasonable fees for the employment of outside consultants, engaged by the Commission for specific expert services deemed necessary to the Commission to come to a final decision on an application submitted to the Commission pursuant to the requirements of the MA Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Bylaw, the State Conservation Commission Act (M.G.L. Chapter 40, Section 8C), or any other state or municipal statute, bylaw or regulation as may be enacted or amended from time to time.

3.5 Table I: Filing Fee Schedule

TYPE OF ACTIVITY	ACTIVITY FEE
1. Determination of Negligible Impact (see Appendix D for a list of allowable DNI activities)	\$25
2. Abbreviated Notice of Resource Area Delineation	\$50 Plus \$1.00/Linear Foot of Each Resource Area to be Confirmed (Total fee shall not exceed \$1,000.00)
3. Borings/Monitoring Wells (Minus Roadway)	\$50.00 per Boring/Monitoring Well
4. Resource Area/Buffer Zone Improvement (e.g. Invasive Species Control, Resource Enhancement/Restoration/Creation)	\$250
5. Nourishment of Existing Beaches	\$50 + \$0.50/Square Foot of Nourishment Area
6. Work on a Single Family Lot:	
⇒ A. Site Modifications (e.g. additions, pools, work on a septic system, & site work without a house)	\$75
⇒ B. Construction of a Single Family House	\$250
7. Multi-family Dwelling Units	\$250 + \$100/Dwelling Unit Wholly or Partially within 100-foot Buffer Zone
8. Commercial, Industrial and Institutional Facilities (Plus Parking Lots & Stormwater Management Measures/BMPs)	\$250 + \$0.50/Square Foot of Buffer Zone Alteration
9. Roadways and Utilities	\$250 + \$2/Linear Foot based on the Maximum Length of Roadway/Utility Crossing within 100-foot Buffer Zone
10. Parking Lots (Plus Stormwater Management Measures/BMPs)	\$250 + \$0.50/Square Foot of Buffer Zone Alteration
11. New Agriculture/Aquaculture Project	\$250 + \$0.50/Square Foot of Buffer Zone Alteration
12. Wetland Resource Crossings/Alterations (e.g. Roadways, Bridges, Utilities, General Site Development & Dredging)	\$350 + \$0.50/Square Foot of Resource Alteration
13. Dam/Sluiceway Work	\$350
14. Work within the Riverfront Area	Applications filed for work within Riverfront Areas shall require the appropriate Activity Fee(s) plus 50% Additional Fee
15. Water Level Fluctuations: (For: Billy Ward Pond, Lake Wampanoag, Lake Watatic, Lake Winnekeag, Lower Naukeag Lake, Stodge Meadow Pond, Sunset Lake and Upper Naukeag Lake)	\$250 (\$100 for all other water bodies not listed, e.g. Factory Village Pond, Marble Pond & Wallace Pond)

3.5 Table I: Filing Fee Schedule (Continued)

TYPE OF ACTIVITY	ACTIVITY FEE
16. Control of Aquatic Vegetation (Chemical/Mechanical) (For: Billy Ward Pond, Lake Wampanoag, Lake Watatic, Lake Winnekeag, Lower Naukeag Lake, Stodge Meadow Pond, Sunset Lake and Upper Naukeag Lake)	\$250 (\$100 for all other water bodies not listed, e.g. Factory Village Pond, Marble Pond & Wallace Pond)
17. New Docks, Piers, Revetments, Dikes, etc.	\$50
18. Hazardous Waste Discharges, Response Actions & Clean-Up Operations	\$350 + \$0.50/Square Foot of Resource/Buffer Zone Alteration (Direct & Indirect)
19. Time Extensions	\$50
20. Amendments to Orders of Conditions	Amendments to Existing Orders of Conditions shall require the appropriate Activity Fee(s) for activities of similar extent, in accordance with the Filing Fee Schedule
21. Certificate of Compliance	\$50 (Due upon issuance of Certificate of Compliance)
22. After-the-Fact Applications	After-the-Fact applications without an Enforcement Order shall require the appropriate Activity Fee(s) plus 50% Additional Fee.
23. Release of Enforcement Orders	\$50
23. After-the-Fact Applications associated with an Enforcement Order	Applications filed in conjunction with an Enforcement Order shall require the appropriate Activity Fee plus 100% Additional Fee(s) (i.e. Double the Activity Fee)
24. Non-Compliance with <i>Ashburnham Wetlands Protection Bylaw and Rules/Regulations</i>	A fine of \$100/day for Unauthorized Activities/Violations affecting Wetland Resource Areas and/or Resource Buffer Zones (Each day or portion thereof during which an unauthorized activity/violation continues shall constitute a separate offense; if there is more than one violation, each violation shall constitute a separate offense.)

Note: Filing fees shall be additive when multiple activities are proposed. For example, a roadway crossing a perennial waterway potentially may require the cumulative sum of Activity Fee #'s 9 + 12 + 14.

- 3.7.2 Funds received by the Conservation Commission pursuant to these Regulations shall be deposited with the Ashburnham Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the discretion of the Commission without further appropriation as provided in M.G. L. Chapter 44, Section 53G. Further, expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the Applicant.
- 3.7.3 The consultant shall be chosen by, and report only to, the Commission and/or its Agent. Specific consultant services may include, but are not limited to resource area survey and delineation, analyses of resource area functions/values, hydro-geologic and drainage analyses, the evaluation of wetland mitigation and compensation plans, the assessment of impacts on municipal conservation lands, and environmental or land use law.
- 3.7.4 The Commission shall give written notice to the Applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the Applicant, and a request for the payment of the fee in its entirety. Such notice shall be deemed to have been given on the date it was mailed or hand delivered. No such costs or expenses shall be incurred by the Applicant if the application or request is withdrawn within ten (10) business days of the date the notice is given.
- 3.7.5 The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary consultant review requires a larger expenditure than originally anticipated or new information requires additional consultant services.
- 3.7.6 Failure by the Applicant to pay the consultant fee specified by the Commission within ten (10) business days of the date the written notice referenced in Section 3.7.4, above, was mailed or hand delivered, shall be cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal). The Commission shall state as such in a letter to the Applicant, a copy of which shall be forwarded to the MA DEP. No additional review or action shall be taken on the permit request until the Applicant has paid the requested fee.
- 3.7.7 The Applicant may appeal the selection of the outside consultant to the Board of Selectmen who may disqualify the outside consultant only on the grounds that the consultant has a conflict of interest or does not possess the required qualifications. Such qualifications shall consist of either an educational degree in or three or more years of practice in the field at issue or a related field (in the case of engineering issues the consultant must be licensed by the Commonwealth of Massachusetts). The Applicant may not appeal on the basis of the scope of the work and/or the amount of the fees. Such an appeal must be in writing and received by the Board of Selectmen and a copy received by the Commission within ten (10) business days of the date consultant fees were requested by the Commission. The required time limits for action upon the application shall be extended by the duration of the administrative

appeal. In this regard, the Board of Selectmen must act upon the appeal within one (1) month or the Commission's choice is sustained (see M.G.L. Chapter 44, Section 53G as amended by Chapter 46, Section 36 of the Acts of 2003).

3.8 Performance Bond

- 3.8.1 The Commission may require the establishment of an escrow account or other security for the benefit of the Town of Ashburnham, sufficient in the opinion of the Commission as to form and surety to secure faithful and satisfactory performance of work required by any Order of Conditions.
- 3.8.2 Notwithstanding the above, the amount of such escrow account or security shall not exceed the estimated cost, including inflation, for the Commission to complete the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Forfeiture of any such escrow account or security shall be as detailed in M.G.L. Chapter 41, Section 81U.
- 3.8.3 For replication projects, the Applicant also may be required to provide an escrow bond for the duration of a monitoring program plus one (1) year to cover the correction costs of any deficiencies revealed by the program. Said bond, at a minimum, shall be equal to the initial cost of the replication.

APPENDIX A

CHECKLIST/STANDARDS FOR COMPLETENESS OF APPLICATION

- ☐ One signed original application and one copy of a completed Abbreviated Notice of Resource Delineation, Request for Determination of Applicability, Abbreviated Notice of Intent, Notice of Intent, Request for Amended Order of Conditions or Request for Extension. The most up-to-date application forms published by the MA DEP shall be used.
- ☐ Two sets of full sized plans and two reduced sized sets, stamped by a professional engineer, land surveyor, landscape architect or registered sanitarian as appropriate for industrial, commercial, institutional, residential subdivision, or multifamily projects. Additionally, the submission of the plan via a pdf file is strongly encouraged. Detail requirements for plans can be found in Appendix B. For small projects, plans of a lesser standard deemed appropriate by the Conservation Agent shall be submitted. At a minimum single family plans shall include scaled drawings based on certified plot plans or subdivision plans. The Conservation Commission may override the Agent's recommendation if the Commission feels additional plans are appropriate.
- ☐ A written description of the proposed project and the manner in which the project complies with the Bylaw and associated Rules/Regulations.
- ☐ Two copies of drainage calculations and other engineering data, as may be applicable.
- ☐ Two copies of landscape plans indicating the locations and common/scientific names of all plantings, as may be applicable (see Appendix E for a representative list of potential buffer zone planting species).
- ☐ Pictures of the project area and proposed wetland resource alteration areas, as may be applicable.
- ☐ Two copies of a locus map showing the parcel where the proposed work is to take place with sufficient streets or points of interest around the parcel to readily identify its location.
- ☐ With the exception of Requests for Determinations of Applicability, an original abutters list certified by the Assessor's Office, the Notification of Abutters form mailed or otherwise provided to all listed abutters, proof of notification to all listed abutters in the form of signatures on a letter listing all information relevant to the hearing, or certified receipts from the Post Office, along with the Affidavit of Service attesting to the notification of all listed abutters. An abutter for the purposes of these Rules/Regulations shall be the owner of any parcel within one hundred (100) feet of the parcel(s) on which the project is proposed, or as set forth in the most recent edition of the State wetland regulations. Notice given to the association of a condominium complex is sufficient; notice to each unit owner is not required. A copy of the Notification to Abutters and Affidavit of Service forms are attached.
- ☐ Proof of mailing of the above to the Department of Environmental Protection (DEP), 8 New Bond Street, Worcester, MA 01606, in the form of a certified receipt from the Post Office. With the exception of Requests for Determinations of Applicability, the DEP mailing should also include copies of the list of certified abutters, and the completed Notification of Abutters and Affidavit of Service.

☐

The appropriate filing fee, including the local Bylaw fees where applicable, made out by check to the Town of Ashburnham.

☐

The appropriate advertising fee for the Legal Notice and the payment thereof shall be coordinated directly with the newspaper of local circulation in which the Commission's Legal Notices are published. A copy of the Legal Notice as published shall be provided to the Commission prior to or at the public hearing.

ADDITIONAL STANDARDS FOR COMPLETENESS OF APPLICATIONS FOR THE TREATMENT OF NUISANCE AQUATIC VEGETATION VIA HERBICIDES

1. MAPS

- Target and common non-target species by Genus and Species, so as to avoid confusion between native and non-native species of the same genus (e.g. *Myriophyllum* and *Potamogeton*);
- Expected application areas – Annual monitoring/year-end reports should state the actual area(s) of herbicide applications;
- Permanent refuge zones, if any;
- Inlets, outlets, and resource areas based on GIS data or more specific delineation methodologies;
- Potential fish habitat relative to expected herbicide application area(s); and
- If applicable, the most recent map(s) of Estimated Habitats of Rare Wildlife, Priority Habitats of Rare Species, and Certified Vernal Pools.

2. HERBICIDE INFORMATION

- A listing of herbicides to be applied;
- Expected application dates for each herbicide to be applied – Annual monitoring/year-end reports should state the actual date(s) of herbicide applications and a listing of each herbicide applied on each application event; and
- Expected herbicide application concentration(s) or rate(s) – Annual monitoring/year-end reports should state the actual concentration(s) or rate(s) of each herbicide applied during each application event.

3. SHORT-TERM MONITORING RESULTS

- Describe the plan for post-application survey(s) for target and non-target species;
- Describe the results of the post-application survey(s) relative to the control of target and non-target species;
- Describe direct and/or indirect impacts to fisheries, if any (e.g. habitat reduction, stabilization and/or enhancement); and
- Describe any fish kills and affected species, if any, and the potential causes (e.g. herbicide application, natural or anthropogenic-induced hypoxia, etc.).

4. HERBICIDE HISTORY/RETROSPECTIVE & LONG-TERM PLANNING

- Describe plans for the new growth of target species based on historic and recent nuisance aquatic plant and treatment data;

- Provide a summary of the available database relative to the applications of herbicides, i.e. an overview based on historic and recent data describing past practices and any changes with respect to areas subject to herbicide applications, and the presence/absence and abundance of nuisance aquatic plant species (Note: a 'survey matrix' indicating the presence of a particular plant species, its location and relative abundance on an annual basis vis-à-vis the years that included either site-specific chemical treatments and/or a lake-wide drawdown is anticipated to assist in this assessment);
- Describe any unique benefits of herbicide applications vs. drawdowns relative to lake-specific nuisance aquatic vegetation. Identify locations where reduced weed populations can be solely attributed to annual lake drawdowns or to herbicide applications, and identify historically and/or currently effective, neutral or non-effective weed control methods and their respective locations; and
- Describe other weed-control measures in effect to prevent the introduction, re-introduction or further spread of target and invasive plant species, e.g. programs for public education, signage relative to boat wash requirements, and lake association newsletters.

APPENDIX B

GUIDANCE FOR FORMS AND PLANS

Forms and plans shall describe the proposed activity and its effect on lands subject to regulation by the Commission, including effects on wetland resource areas, and such ancillary activities as the management of stormwater runoff. The following items are set out as minimum standards and are not intended to be a complete and final presentation as to what the forms or plans should include. The Applicant may submit or be required to submit to the Commission any further information which will assist in the review and which is deemed necessary to determine the proposed effect on the interests protected by this Bylaw. All applications should include the original material and one (1) copy.

All forms, plans, drawings, sketches, and calculations shall be dated and signed by the person responsible for their preparation. Plans and drawings involving the practice of surveying or engineering shall be stamped and signed by the appropriate design professional(s) who shall be registered in the Commonwealth of Massachusetts.

Narratives shall include a discussion of the proposed activity and its impacts on the statutory interests of the MA Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and implementing regulations (310 CMR 10.00 et. seq.), and the Bylaw. Section 1.5 of these Regulations lists the performance standards which must be addressed. One word answers such as none or minimal may not be accepted. If the Applicant contends that there will be no effect on the interests which the Bylaw protect, the Applicant must demonstrate to the Commission's satisfaction why there will be no effect.

For small projects, plans of a lesser standard deemed appropriate by the Commission or its Agent may be submitted. At a minimum, plans for single family residences shall include scaled drawings based on certified plot plans or subdivision plans. The Commission may override the Agent's recommendation if the Commission feels additional plans are appropriate. All plans submitted under any section of these Regulations shall be of adequate size, scale and detail to completely and accurately describe the site and the work proposed. The Commission reserves the right to request additional narrative information on the forms or other information on the plans.

Applications for Permits

All applications for permits shall contain plans, calculations and/or supporting data which shall meet the following requirements, as appropriate for the proposed activity, unless otherwise deemed sufficient by the Commission:

1. Maximum sheet size shall be 24" x 36"; minimum sheet size shall be 8½" x 11"
2. For subdivisions of land, the first sheet shall clearly show the entire subdivision and all proposed lots and roadways. This scale may be greater than 1" = 50'
3. At least one plan must show the locations and boundaries of all wetland resource areas and associated buffer zones on the entirety of the subject site(s)
4. Plans at a scale of not more than 1" = 40'; 1" = 20' is recommended
5. Graphical scale and North arrow
6. Lines, symbols, clouding, colors, etc. identified and referenced in a legend

7. USGS locus map at a scale of 1" = 1000'
8. Locations, elevation and datum of the benchmark used for survey
9. Bearings and distances of all property lines with existing and proposed boundary control points
10. Existing contour lines at contour intervals no greater than two feet up to the abutters' property lines
11. Proposed contour lines up to the abutters' property line, at contour intervals no greater than two feet
12. Wetland resource boundary lines indicated by numbers and flags and the type of resource area named, e.g. Bordering Vegetative Wetlands, Mean Annual High Water Line used to denote Riverfront Area boundaries, etc.
13. Description of the wetland resource delineation method(s) used to identify and determine wetland resource boundaries
14. Completed DEP Bordering Vegetated Wetland Delineation Field Data Forms and/or US Army Corps of Engineers Wetland Determination Data Form
15. Edge of vegetated wetlands, flood plain, 100-foot buffer zone and 200-foot riverfront area, including division between the inner and outer riparian zones
16. Replication areas locations, including grading plan(s) with the existing and proposed elevations, the specific locations of proposed plantings, proposed plant species composition, and planting schedule
17. Replication and monitoring/maintenance
18. Existing and proposed locations of all drainage features, including the sizes, slopes and inverts of culverts; invert and rim elevations of catch basins; detention facilities and other stormwater management structures/best management practices (BMPs), and all existing drainage features located within 200 feet of the project
19. Proposed pollution control devices such as oil/gas separators, oil absorption pillows, hooded catch basins, flow dissipaters, detention basins, berms, and vegetative buffers
20. Location and details of temporary/permanent erosion and sedimentation control devices
21. Proposed lowest elevations for cellars or floors
22. Calendar dates, locations of samplings, and results including but not limited to, groundwater tests, percolation tests, soil borings, soil logs, wetland delineation, habitat and/or wildlife evaluations and water quality testing
23. Soil characteristics in representative parts of the property as identified in the Worcester County Soil Conservation Survey, other credible source and/or as field identified
24. Existing major features of the property such as structures, including, but not limited to, buildings, foundations, stone walls, wells (public or private), embankments, stockpiles of fill, piers, wharves, riprap, cement area, asphalt areas, pools, bridges, trails, historic areas, fuel storage tanks, trees exceeding 12" caliper, and vegetative communities
25. Existing and proposed locations of containment units for solid waste, chemicals, liquid waste, radioactive materials, explosives and other materials or substances as required by the Commission
26. Abutters' names, with maps and lot numbers of property
27. Title block which shall be located in the bottom right-hand corner and include the name/entity responsible for plan preparation, identification of project, name(s)

- of owner, house number if applicable, assessor's map and lot numbers, names of existing or proposed streets, name of sub-division date, revision dates and scale
28. The following NOTE shall be included on the plan:

ATTENTION: The work proposed on this plan is allowed by an Order of Conditions issued by the Ashburnham Conservation Commission, which includes strict standards and requirements. No work is to proceed until the Contractor(s) has reviewed and agreed to abide by all the conditions therein by signature(s) on the Affidavit of Understanding appended to the Order of Conditions. The completed and signed Affidavit of Understanding shall be submitted to the Commission prior to the commencement of work.

A copy of the referenced Affidavit of Understanding is provided in Appendix F.

29. The Professional Engineer's\Registered Land Surveyor's\Sanitarian's name, wet stamp, signature and date signed.
30. Certification of construction documents by a PE (Registered Professional Engineer qualified in the branch of civil engineering or environmental engineering), a RLS (Registered Professional Land Surveyor) or RS (Registered Sanitarian) based on the following list:

Engineering Design	PE
Site Plans	PE & RLS
Subsurface Sewer Design (over 2,000 gallons)	PE
Subsurface Sewer Design (under 2,000 gallons)	PE or RS
Percolation Tests & Deep Observation Holes	Soil Evaluator
Definitive Subdivision Plans	PE & RLS

Wetland Resource Replication Requirements

In conjunction with the permit applications involving the replication of wetland resources, plans shall be submitted which, at the minimum, include the following:

1. An alternatives analysis demonstrating that no less environmentally damaging alternative exists relative to the proposed action
2. Replication area location, configuration and size
3. Existing field delineated vegetated wetlands
4. Other existing wetland resource areas, including Lands under Water, Banks, Lands Subject to Flooding, and Riverfront Areas
5. Groundwater elevations within the replication site
6. Limit of work and soil erosion/sediment controls
7. Existing and proposed resource area elevations
8. Cross sections of the replication site showing existing and proposed elevations
9. Planting locations by species within the replication area, including seed mix application areas, if any

10. Planting locations by species within uplands disturbed by replication area construction, including seed mix application areas, if any

In all instances involving the replication of freshwater wetlands, the surface area of the replication area shall be at least equal to that of the area that will be lost.

A narrative also shall be submitted that describes the rationale for replication site selection, replication goals/objectives, the manner in which the work will be performed, and an overall construction phasing plan. In addition, the narrative shall include a commitment to a pre-replication construction meeting with the Commission and/or its Agent, as well as descriptions of site preparation and grading activities, and the source and composition (e.g. soil texture and organic carbon content) of soil to be applied to the replication site. The proposed planting program also shall be described, including the source of native plant materials, the species and number of each to be planted, planting locations and timeframes, etc. Further, the narrative shall identify proposed monitoring and maintenance procedures to ensure the success of the overall wetland replication program, including such measures as the frequency of monitoring, data to be collected during each monitoring period, and a plan of action in the event remedial actions are required (e.g. site irrigation, the removal of invasive plant species, etc.).

Lastly, the narrative shall describe the preparation of monitoring reports, to be submitted annually to the Commission by December 15th during each monitoring year.

Post-Permit Monitoring Reports

For Commission-authorized activities involving the replication of wetland resources, annual monitoring reports shall be prepared. These reports shall contain the following:

- a) Monitoring inspections that occurred since the last report
- b) Plant species health and vigor, composition and vegetation cover percentages within the site, as well as estimates of the percent cover of invasive plant species including, but not necessarily limited to, common reed (*Phragmites australis*) and purple loosestrife (*Lythrum salicaria*)
- c) Wetland functions/values and the achievement of performance standards or measures to attain the standards
- d) The status of side-slope stabilization and all soil erosion/sediment controls
- e) Photographs taken during the monitoring period
- f) Agency consultations relative to the wetland replication area
- g) Remedial actions/controls conducted during the monitoring year, including those conducted to improve the success potential of the wetland compensation program. These activities may include, but are not limited to, re-grading; slope stabilization; replanting; debris removal; and control of invasive plant species
- h) Recommendations for future remedial activities
- i) A general statement describing the conditions of the replication site, including its conditions relative to adjacent reference wetlands
- j) Maps and plans, as appropriate, and
- k) Monitoring Report Appendices

Annual monitoring report appendices shall contain the following:

Appendix A – An “as-built” plan indicating topography at 1-foot contour intervals, any inlet/outlet structures, and the location and extent of plant communities within the replication area.

Appendix B – A list of plant species associated with the replication site, including volunteer species that cover > 5% of the compensation area.

Appendix C – Representative photographs of the wetland compensation site taken from fixed monitoring locations during each monitoring event. Each photograph will note the date, time, weather, and other relevant observations. A map indicating photograph locations and directions also shall be provided.

APPENDIX C INSPECTION SCHEDULE

All Projects:

Limit of Clearing: The limit of clearing for the entire project, or each phase if the project is phased, shall be staked under the supervision of a registered Professional Engineer or a Registered Professional Land Surveyor and approved by the Commission and/or its Agent prior to any clearing activities.

Erosion Control Barrier: The Commission and/or its Agent must inspect and approve the installation of the erosion control barrier prior to commencement of work.

Foundations: All foundations or other structures shall be staked under the supervision a registered Professional Engineer or a Registered Professional Land Surveyor prior to installation as required by the Order of Conditions and approved by the Commission and/or its Agent prior to installation.

Certificate of Compliance: The Commission and/or its Agent must inspect and approve the project upon completion of work and stabilization of site.

Residential Subdivisions/Commercial, Industrial & Institutional Development:

Limit of Clearing: The limit of clearing for the entire project, or each phase if the project is phased, shall be staked under the supervision of a registered Professional Engineer or a registered Professional Land Surveyor and approved by the Commission and/or its Agent prior to any clearing activities.

Erosion Control Barrier: The Commission and/or its Agent must inspect and approve the installation of the erosion control barrier prior to commencement of work.

Roadway and Stormwater Management Facilities: The roadway and stormwater management facilities shall be staked out by a registered Professional Engineer or a registered Professional Land Surveyor and approved by the Commission and/or its Agent prior to commencement of work.

Foundations: All foundations or other structures shall be staked under the supervision of a registered Professional Engineer or a registered Professional Land Surveyor prior to installation as required by the Order of Conditions and approved by the Commission and/or its Agent prior to installation.

Certified Plot Plan: When required by the Order of Conditions, a certified plot plan prepared by a registered Professional Land Surveyor shall be submitted and approved by the Commission and/or its Agent prior to erection of the structure.

Certificate of Compliance: The Commission and/or its Agent must inspect and approve the project upon completion of work and stabilization of site. At a minimum, a Partial Certificate of Compliance should be requested before receiving an Occupancy Permit.

APPENDIX D
DETERMINATION OF NEGLIGIBLE IMPACT
(FOR BUFFER ZONE PROJECTS OUTSIDE ALL RESOURCE AREAS)

At the discretion of the Ashburnham Conservation Commission, minor activities subject to the Commission's jurisdiction may be approved via a Determination of Negligible Impact (DNI) prior to the commencement of work. Such minor activities shall include but not necessarily be limited to the following actions:

- Clearing of vegetation, including tree removal (see attached Appendix D Supplement)
- Planting of native vegetation
- Small additions (under 500 square feet) located more than 50 feet away from a resource area
- Sheds
- Decks
- Patios
- Impervious/pervious pedestrian walkways
- Fences

APPENDIX D – APPLICATION/PERMIT SUPPLEMENT

Before cutting that tree or ‘moving the earth’... Are you in or near a surface water or wetland?

Surface waters and wetlands in Ashburnham are legally protected by the US Clean Water Act, MA Wetlands Protection Act and the Ashburnham Wetlands Protection Bylaw. The Bylaw and its implementing Rules and Regulations can be viewed at <http://www.ashburnham-ma.gov/conservation-commission>.

‘Surface waters’ (i.e. waterbodies/waterways) include all lakes, ponds, rivers, streams, and vernal pools. ‘Wetlands’ consist of such vegetated areas as bogs, wet meadows, marshes, and shrub- and tree-dominated swamps.

Waters and wetlands provide many services and benefits:

- **Clean water.** Wetlands filter out sediments and other water pollutants.
- **Flood control.** Wetlands can dramatically reduce flood damage to municipal facilities (e.g. roads) and personal properties.
- **Biodiversity.** The Commonwealth’s surface waters and wetlands provide habitat for a diverse assemblage of plant and wildlife species, including some State-listed rare species which occur in Ashburnham.



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Projects near waters and wetlands are under the jurisdiction of the Town’s Conservation Commission. Everyone needs a Commission permit for activities **within 100 feet of a waterbody/waterway or wetland (even isolated wetlands), or within 200 feet of a perennial stream/river**. Such actions include, but are not limited to the following:

- Tree cutting / ‘Vista pruning’
- Soil disturbance such as for septic systems, foundations, deck footings, or landscaping
- Lake drawdowns and herbicide use
- New docks and repairs to waterfront retaining walls

Failure to obtain advance approval can result in an enforcement order, fines and/or costly resource restoration efforts, and extensive project-related delays.

Thus, if you believe a permit is required or even if you’re unsure if a permit is needed, please contact the Conservation Office at 978-827-4100, Ext. 4/Option 1, or send an e-mail to conservation@ashburnham-ma.gov. The Conservation Agent is available at Town Hall (Lower Level) on Tuesdays and Thursdays, and the volunteer Commission meets the second and fourth Mondays of every month at 6:30 PM. **Simply said ... Plan ahead!**

APPENDIX E

REPRESENTATIVE LIST OF POTENTIAL BUFFER ZONE PLANTINGS

COMMON NAME	SCIENTIFIC NAME
TREES/TALL SHRUBS	
Red Maple	<i>Acer rubrum</i>
Sugar Maple	<i>Acer saccharum</i>
Serviceberry	<i>Amelanchier canadensis</i>
Yellow Birch	<i>Betula allegheniensis</i>
American Hornbeam/Ironwood	<i>Carpinus caroliniana</i>
Hickories	
Mockernut	<i>Carya tomentosa</i>
Pignut	<i>Carya glabra</i>
Shagbark	<i>Carya ovata</i>
Dogwoods	
Silky	<i>Cornus amomum</i>
Flowering	<i>Cornus florida</i>
Gray	<i>Cornus racemosa</i>
Red-osier	<i>Cornus sericea</i>
American Beech	<i>Fagus grandifolia</i>
Winterberry	<i>Ilex verticillata</i>
Red Spruce	<i>Picea rubens</i>
Oaks	
White	<i>Quercus alba</i>
Pin	<i>Quercus palustris</i>
Red	<i>Quercus rubra</i>
Black	<i>Quercus velutina</i>
SHRUBS	
Gray/Speckled Alder	<i>Alnus incana/rugosa</i>
Sweet Pepperbush	<i>Clethra alnifolia</i>
Witch Hazel	<i>Hamamelis virginiana</i>
Inkberry	<i>Ilex glabra</i>
Spicebush	<i>Lindera benzoin</i>
Pussy Willow	<i>Salix discolor</i>
Elderberry	<i>Sambucus canadensis</i>
Blueberries	
Lowbush	<i>Vaccinium angustifolium</i>
Highbush	<i>Vaccinium corymbosum</i>

APPENDIX E
REPRESENTATIVE LIST OF POTENTIAL BUFFER ZONE PLANTINGS
(CONTINUED)

COMMON NAME	SCIENTIFIC NAME
SHRUBS (CONTINUED)	
Viburnums	
Northern Wild Raisin	<i>Viburnum cassinoides</i>
Arrowwood	<i>Viburnum dentatum/recognitum</i>
Nannyberry	<i>Viburnum lentago</i>
HERBACEOUS/ GROUND COVER SEED MIXES	
New England Conservation/Wildlife Mix	New England Wetland Plants
New England Wildflower Mix	New England Wetland Plants
Northeast Annual & Perennial Wildflower Mix	Ernst Seeds
Mesic to Dry Native Pollinator Mix	Ernst Seeds
Wildlife Food & Shelter Mix	Ernst Seeds

Appendix F

Forms

Board of Selectmen
Extension 0
Town Administrator
Extension 0
Town Accountant
Extension 1, Option 3
Town Clerk
Extension 3
Tax Collector
Extension 1, Option 2
Treasurer
Extension 1, Option 1
Board of Assessors
Extension 2
Land Use Office
Extension 6
Planning Board
Extension 4, Option 1
Conservation Commission
Extension 4, Option 2



TOWN OF ASHBURNHAM
Town Hall, 32 Main Street
Ashburnham, Massachusetts 01430

Animal Control
Board of Health
Building Commission
Conservation Commission
Council on Aging
Cultural Council
Electrical Inspector
Gas & Plumbing Inspector
Historical Commission
Municipal Planning
Parks & Recreation
Planning Board
Zoning Board of Appeals

PHONE: (978)-827-4100
FAX: (978) 827-4105

OFFICE OF THE CONSERVATION COMMISSION

DETERMINATION OF NEGLIGIBLE IMPACT

Name: _____ **Date:** _____

Address: _____

Map: _____ **Lot:** _____

Project Description:

Resource Area: Check all that apply

- ☐ Buffer Zone to Bank ☐ Buffer Zone to Bordering/Isolated Vegetated Wetland
☐ Buffer Zone to Land Subject to Flooding ☐ Riverfront Area

Distance from Resource Area: _____ Feet **Impact Area:** _____ Square Feet

Topography Between Project and Resource Area: _____

Protective Measures: _____

Date taken to Conservation Commission: _____

Fee Received (Date/Amount): _____

Decision:

Conditions:

Board of Selectmen
Extension 0
Town Administrator
Extension 0
Town Accountant
Extension 1, Option 3
Town Clerk
Extension 3
Tax Collector
Extension 1, Option 2
Treasurer
Extension 1, Option 1
Board of Assessors
Extension 2
Land Use Office
Extension 6
Planning Board
Extension 4, Option 1
Conservation Commission
Extension 4, Option 2



TOWN OF ASHBURNHAM
Town Hall, 32 Main Street
Ashburnham, Massachusetts 01430

Animal Control
Board of Health
Building Commission
Conservation Commission
Council on Aging
Cultural Council
Electrical Inspector
Gas & Plumbing Inspector
Historical Commission
Municipal Planning
Parks & Recreation
Planning Board
Zoning Board of Appeals

PHONE: (978)-827-4100
FAX: (978) 827-4105

OFFICE OF THE CONSERVATION COMMISSION

Notification of Abutters

In accordance with the Massachusetts General Laws Chapter 131, Section 40, and the Town of Ashburnham Wetlands Protection Bylaw, you are hereby notified of the following:

The below named applicant has filed an Abbreviated Notice of Intent (ANOI) or Notice of Intent (NOI) with the Ashburnham Conservation Commission seeking permission to perform the following work within an Area Subject to Protection or work within 100 feet of an Area Subject to Protection under the Wetlands Protection Act and/or the Town of Ashburnham Wetlands Protection Bylaw:

Name of Applicant: _____
Name of Owner of Property: _____
Name of Applicant's Representative: _____
Location/Address of Proposed Activity: _____
Description of Proposed Work: _____

Copies of the filing may be examined at the Ashburnham Land Use Office at the Town Hall during normal business hours, or through arrangements with the applicant or applicant representative.

Applicant's Telephone Number: _____
Representative's Telephone Number: _____

Information regarding the date, time, and place of the Public Hearing may be obtained by calling the Land Use Office at the above number. The Agenda will be posted in Town Hall at 32 Main Street at least 48 hours in advance of the Hearing. Notice of the Public Hearing including date, time, and place will be published at least five days in advance in The Gardner News. Hearings are generally held in the Town Hall Lower Level Meeting Room unless otherwise specified.

Date of Hearing: _____ Time of Hearing: _____ PM

Place of Hearing: Town Hall – Lower Level Meeting Room

Board of Selectmen
Extension 0
Town Administrator
Extension 0
Town Accountant
Extension 1, Option 3
Town Clerk
Extension 3
Tax Collector
Extension 1, Option 2
Treasurer
Extension 1, Option 1
Board of Assessors
Extension 2
Land Use Office
Extension 6
Planning Board
Extension 4, Option 1
Conservation Commission
Extension 4, Option 2



TOWN OF ASHBURNHAM
Town Hall, 32 Main Street
Ashburnham, Massachusetts 01430

Animal Control
Board of Health
Building Commission
Conservation Commission
Council on Aging
Cultural Council
Electrical Inspector
Gas & Plumbing Inspector
Historical Commission
Municipal Planning
Parks & Recreation
Planning Board
Zoning Board of Appeals

PHONE: (978)-827-4100
FAX: (978) 827-4105

OFFICE OF THE CONSERVATION COMMISSION

AFFIDAVIT OF SERVICE

This Affidavit of Service is submitted in accordance with the Massachusetts General Laws Chapter (MGL) 131 Section 40, and the Town of Ashburnham Wetland Protection Bylaw/Rules and Regulations.

I, _____ (Name), hereby certify under the pains and penalties of perjury that on _____ (Date), I gave notification to abutters in compliance with the second paragraph of MGL Chapter 131 Section 40, and the Town of Ashburnham Wetland Protection Bylaw/Rules and Regulations, in connection with the following matter:

A Request for Determination of Applicability / Abbreviated Notice of Intent / Notice of Intent filed under the Massachusetts Wetland Protection Act and the Town of Ashburnham Wetland Protection Bylaw/Rules and Regulations by

_____ (Name) with the Ashburnham Conservation Commission on _____ (Date) for property located at

_____.

The form of notification, and a list of the abutters to whom it was given and their addresses, are attached to this Affidavit of Service.

_____ (Name) _____ (Date)

Board of Selectmen
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Extension 1, Option 2
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OFFICE OF THE CONSERVATION COMMISSION

AFFIDAVIT OF UNDERSTANDING

Date:
Applicant:
Location:
DEP File #:

The undersigned hereby acknowledge that I/we have received a copy, read and understand the requirements of the Order of Conditions issued to _____ by the Ashburnham Conservation Commission on _____. I certify that I will adhere to these conditions when participating in activities relating to this Order.

1.

_____	_____	_____
Responsible Party Name (Printed)	Responsible Party Signature	Role in Project
_____	_____	
Contact Number	Date	
2.

_____	_____	_____
Responsible Party Name (Printed)	Responsible Party Signature	Role in Project
_____	_____	
Contact Number	Date	
3.

_____	_____	_____
Responsible Party Name (Printed)	Responsible Party Signature	Role in Project
_____	_____	
Contact Number	Date	
4.

_____	_____	_____
Responsible Party Name (Printed)	Responsible Party Signature	Role in Project
_____	_____	
Contact Number	Date	
5.

_____	_____	_____
Responsible Party Name (Printed)	Responsible Party Signature	Role in Project
_____	_____	
Contact Number	Date	